

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MARISSA J. LONARDO,

Plaintiff,

- against -

MANUEL ALEJANDRO RUIZ,
CHOSEN FEW EMERALD ENTERTAINMENT, INC.
CHOSEN FEW ARTIST MANAGEMENT, INC.,
CHOSEN FEW ENTERTAINMENT, LLC, and
SONG OF JOY RUIZ WONDER PUBLISHING, INC.,

Docket No.: 19-CV-04907
(DLI)(RML)

Defendants.

FEE AFFIDAVIT OF MICHAEL W. MACOMBER

I, Michael W. Macomber, hereby swear or affirm under penalty of perjury under the laws of the United States of America that the following statements are true and correct to the best of my personal knowledge, or information and belief.

1. My name is Michael W. Macomber. During the timeframe relevant to the above-captioned matter, I have been engaged in the practice of law as a Partner of the law firm of Tully Rinckey, P.L.L.C., attorneys for Plaintiff, Marissa J. Lonardo (hereinafter “Lonardo”), and as such I am fully familiar with the pleadings and proceedings. I am an attorney duly admitted to practice law in the State of New York and Massachusetts.

2. I am admitted to practice law in the states of Massachusetts (December 2009) and New York (January 2010). I am admitted to practice before the United States District Court for the State of New York Northern District, Western District, Eastern District, Southern District, and United States District Court for the Central District of Illinois. I am also admitted to practice

before the Court of Appeals for the Federal Circuit, the Second Circuit, and the Naval and Marine Court of Criminal Appeals.

3. Since being admitted to practice law, my entire legal career has been dedicated to employment litigation and prosecuting civil rights violations. Since September 2009, I have been employed by Tully Rinckey PLLC.

4. My practice at Tully Rinckey PLLC is focused on private, state, and federal sector employment law. I am the Chief Executive Officer of the Firm, and I am the Section Chair of the firm's New York State Employment Group as well as a Practice Area Chair in the Federal Sector Labor and Employment Group. My practice focuses on federal and private sector employment law claims, including claims involving the Uniformed Services Employment and Reemployment Rights Act (USERRA), Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), Family and Medical Leave Act (FMLA), Fair Labor Standards Act (FLSA), National Labor Relations Act (NLRA), New York Labor Law, New York Executive Law, and Qui Tam claims.

5. In my employment practice I have represented clients before the United States Court of Appeals for the Federal Circuits and litigated numerous cases in State and Federal Court, including but not limited to the Northern, Eastern, Southern, and Western Districts of New York, and Administrative Hearings before the Merit Systems Protection Board (MSPB); Equal Employment Opportunity Commission (EEOC); Office of Special Counsel (OSC); Division of Human Rights (DHR), and, various Offices of the Inspector General (OIG).

6. Currently, as a Partner and Practice Area Chair for labor and employment, my hourly rate for similar cases is three hundred and seventy-five dollars (\$375.00) per hour.

7. Since the time Ms. Lonardo retained Tully Rinckey to represent her in this action, the Firm has issued regular billing statements as to the fees incurred. Tully Rinckey P.L.L.C. uses a billing software, “Juris Suite,” produced by LexisNexis (hereinafter “Juris”). Juris allows the firm to contemporaneously record the time entered by each attorney to each respective client’s matter on a daily basis. Juris also records the expenses to each matter.

8. Time spent on Ms. Lonardo’s case, as in all cases, is billed in tenths of an hour, with time being entered daily.

9. Throughout the duration of this firm’s involvement in the instant FLSA litigation, I have been the supervisory attorney or primary attorney assigned to Ms. Lonardo’s case. From time to time, other Partners and Associates at the Firm have been involved to review work, discuss strategy, draft briefs and pleadings, or confer regarding procedural aspects of the case.

10. The following attorneys have worked on Ms. Lonardo’s case: Partner Michael W. Macomber (“MWM”), Partner Allen A. Shoikhetbrod (AAS); Senior Counsel Kevin Shehan (KSJ); Senior Associate Nicholas A. Devyatkin (NAD), Associate Sara B. Sweeney (SBS), and Law Clerk Andrea Ennis (AEN).

11. The specific legal services provided, and hours expended, in connection with the Firm’s representation of Ms. Lonardo, totaled Three hundred Eighty-three point Two (57.6) hours of time. This time included reviewing the record, drafting the complaint, reviewing, collating, and organizing over eighty thousand pages of Electronically Stored Information (ESI), engaging in discovery, reviewing the Defendants’ document production, settlement discussions, calculations of damages based on the ESI, preparing pre-mediation statements, attending mediation, preparing the instant *Cheeks* letter motion, and conferring with Ms. Lonardo regarding the litigation of her

complaint. All time was billed contemporaneously in tenths of an hour, which is standard practice for attorneys representing employees.

12. As set forth in the attached *Letter Motion*, the requested fees are reasonable and in accordance with the prevailing market rate.

Dated: June 3, 2021
Albany, New York

Respectfully submitted,

/s/ Michael W. Macomber

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